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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,994

12/15/2004

Uwe Beer

ZAHFRI P701US

7265

20210 7590 12/17/2007  
DAVIS BUJOLD & Daniels, P.L.L.C.  
112 PLEASANT STREET  
CONCORD, NH 03301

EXAMINER

FIELDS, DORON D

ART UNIT

PAPER NUMBER

4143

MAIL DATE

DELIVERY MODE

12/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,994	<b>Applicant(s)</b> BEER ET AL.	
	<b>Examiner</b> DORON D. FIELDS	<b>Art Unit</b> 4143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-8 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>15 December 2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in reply to the application filed on 15 December 2004 and preliminary amendment filed on 15 December 2004.
2. Claims 6-8 have been added.
3. Claims 1-5 have been canceled.
4. Claims 6-8 are currently pending and have been examined.

### **Information Disclosure Statement**

The Information Disclosure Statement filed on 15 December 2004 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### ***Specification***

5. The disclosure is objected to because of the following informalities:
  - The other advantageous embodiment of page 2, paragraph 11 ("In another advantageous embodiment ... by the edge of the contoured element") is repeated in its entirety on page 3, paragraph 12.

Appropriate correction is required.

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Objections***

7. Claim 6 objected to because of the following informalities:
  - Claimed elements are not indented; in particular, the device, rod, contoured element, spring, and cylinder.

Examiner suggests that Applicant rewrite the claim according to 37 CFR 1.75 (i).

Appropriate correction is required.

**Claim Rejections - 35 USC § 102**

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 6 and 8 rejected under 35 U.S.C. 102(b) as being anticipated by Wagner et al. (DE 196 53 171 A).

**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

**Claim 6:****Wagner, shown, discloses the following limitations**

*A shifting assembly for a multiple gear variable speed motor vehicle transmission having*

- *one of a central selector or a shifting shaft (2) (see at least Fig 2, item # 19) that is mounted in a transmission housing (12) (see at least Fig 2, item # 17) such that the central selector or the shifting shaft (2) can be axially rotated and displaced, by rotating the selector or shaft, a coupling to be actuated, in a shift gate can be selected, and by subsequently axially displacing selector or shaft, gear ratios can be selected, and*
- *a device (4) (see at least Fig 2, item # 20) is provided on one of the selector or shifting shaft (2) or on an auxiliary shaft (28) that is controlled by the selector or shifting shaft, which bears a rod (6) (see at least Fig 2, item # 22) mechanically linked with a contoured element (16) (see at least Fig*

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2, item # 25) mounted in the transmission housing (12) such that the element can swivel, a contoured edge (20) (see at least Fig 2, item # 33) of the contoured element (16) mirrors selection patterns and is spring against the rod (6) by a spring element (18) loaded (see at least Fig 2, item # 42), a rotatable cylinder (8) (see at least Fig 2, item # 23) being provided on said rod (6), the rod operates in conjunction with the contoured edge (20) of the contoured element (16), the cylinder (8) is capable of being displaced axially on the rod (6).

**Claim 8:****Wagner, shown, discloses the following limitations**

*The shifting assembly according to claim 6 (shown above in the rejection of claim 6),*

- *wherein a deepest notch (22) on the contoured edge (20) has a neutral position that corresponds to a non-actuated position of rest for a shifting lever in a selection gate (see at least Fig 5)*

**Claim Rejections - 35 USC § 103**

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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12. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. (DE 196 53 171 A).

**Claim 7:**

**Wagner, shown, discloses the following limitations**

*The shifting assembly according to claim 6 (shown above in the rejection of claim 6),*

**Wagner does not disclose the following limitation**

- *wherein a circumference of the cylinder (8) is equipped with a groove (10), in which the contoured edge (20) of the contoured element (16) engages.*

However, the Examiner takes **Official Notice** that it is old and well known in the mechanical arts to rut a surface in order to prevent axial movement between two bodies in rolling contact. It would have been obvious to one skilled in the art at the time of the invention to groove the circumference of the cylindrical body as to prevent slippage between it and the contoured element during axial movement.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Tornatore, Giovanni (US-PAT-NO: US 5,845,538) discloses a device for detecting vehicle gearbox selector rod and position.
- Muller, Norbert et al (DE 100 16 364 A) discloses a selector for a manual gear shifter.

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Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Doron Fields** whose telephone number is **571.270.3107**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **JAMES A. REAGAN** can be reached at **571.272.6710**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building  
401 Dulany Street  
Alexandria, VA 22314.

/Doron D Fields/ Examiner, Art Unit 4143  
10 December 2007

/James A. Reagan/Supervisory Patent Examiner, Art Unit 4143